

Investigation Into Allegations Against Senator Daylin Leach

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Prepared for:

Pennsylvania Senate Democratic Caucus

Presented by:

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Introduction

- Inquirer Story – December 17, 2017:
 - Allegations of sexualized talk and inappropriate touching.
- Private Criminal Complaint – January 2019:
 - Allegations by Cara Taylor of sexual assault.
- Senate Investigation Initiated.

Scope

- Independent Workplace Investigation:
 - No direction or oversight from Caucus or Leadership.
- Procedure:
 - Reviewed thousands of pages of documents.
 - Interviewed 19 witnesses:
 - 2 witnesses declined.
 - 4 did not return calls/were not located.

Findings

- Allegations raised in December 17, 2017 Inquirer article.
- Additional relevant allegations uncovered during the investigation.
- Allegations raised by Cara Taylor.

Allegation 1

- Allegation:
 - *An unnamed intern/employee was nicknamed "thong girl" because her underwear had once inadvertently become visible.*

Allegation 1

- Conclusion:
 - Multiple employees used nickname, including Senator Leach.
 - While Senator Leach was not the originator of the nickname, as the superior in the Office, he had an obligation to set the tone and prohibit such behavior, not condone it.
 - No actionable sexual harassment.
 - Comments/jokes of this nature could potentially contribute to claim of hostile work environment.
 - Prompt remedial action was taken by District Office Management once aware.

Allegation 2

- Allegation:
 - *In February 2015, a campaign staffer met Senator Leach at the Federal Taphouse during a SDCC event where he slid his hand down her back and "touched [her] butt." After she yelled at Senator Leach, one of his aids advised her that her response was inappropriate. About a month later, while employed as a Caucus employee, Senator Leach "approached her from behind and tickled her torso while she sat at her desk." The incident was reported to her boss and she was interviewed by a human resources officer. She stated that "she felt as if she had been discouraged from filing a formal complaint."*

Allegation 2

- Conclusion:
 - February 2015 SDCC Event:
 - Senator Leach did not touch the former campaign staffer/Caucus employee's rear end.
 - The employee's version of events made clear that she "stepped away" before any such contact could have, or did, occur.
 - No actionable sexual harassment.
 - March 2015 Capitol Building Office:
 - Senator Leach admitted to touching the employee on her shoulders in the context of being excited to see that she had received a position with the Caucus.
 - Even if the activity occurred as described by the employee, such contact did not rise to the level of sexual harassment or create a hostile work environment.
 - Prompt remedial action was taken by Human Resources Department.

Allegation 3

- Allegation:
 - *While a former District Office staff employee was walking past the Senator in an open area of the office, his hand may have brushed her butt.*

Allegation 3

- Conclusion:
 - Employee in question declined to participate.
 - District Office personnel questioned employee:
 - Employee not sure contact actually occurred, and could not state, if it even occurred, whether accidental or intentional.
 - Employee advised she could file a formal complaint, but she declined to do so.
 - Later, employee may have attempted to use the incident for personal gain to secure a promotion, but even while being terminated for such conduct, she did not initiate any complaints regarding the incident with the Human Resources Department.
 - No actionable sexual harassment.
 - Prompt remedial action was taken by District Office management.

Allegation 4

- Allegation:

- *In February 2016, a campaign staffer reported that the at a political fundraiser she spoke with Senator Leach and explained to him that she had once lived in Beirut, Lebanon and could speak Arabic. During that conversation, Senator Leach "held on to her upper arm 'for an uncomfortable amount of time,' maybe 10 seconds or so." "It seemed harmless," but then she received an email from Senator Leach later that evening. The subject line read "Hey there," and contained a short message in Arabic, "How wonderful it was to talk to you today," followed by a reference to some petitions. The next morning, Senator Leach approached her at the check-in table, "sat next to her, discussed his history of fighting for women, and suggested he might be able to help her find a job." And, then, "he grabbed [her] thigh, almost to punctuate his point with cruel irony."*

Allegation 4

- Conclusion:
 - February 9, 2016 Encounter at Fundraising Event:
 - Encounter described in the article as “harmless” - this description was consistent with interview results.
 - Thank you note not inappropriate or a violation of any Senate policy.
 - February 9, 2016 Encounter at SDCC Fundraising Breakfast Event:
 - The witness indicated that the Senator placed his hand on her thigh, closer to her knee, but he did not squeeze it.
 - This contact, while personally intrusive to the campaign staffer, was not described as sexual in nature during our interview, and was not severe and pervasive to rise to the level of sexual harassment or create a hostile work environment.

Allegation 5

- Allegation:
 - *A video clip that could be classified as pornographic was shown in Senator Leach's District Office.*

Allegation 5

- Conclusion:
 - Employee in question declined to participate.
 - Employee showed the video clip, which was no more than 10 seconds in length, to the Senator.
 - Senator Leach admitted that a former employee privately showed him the video clip in question.
 - While viewing the clip proffered by the employee did not constitute sexual harassment, it was in poor judgment, and activity of this nature could potentially contribute to a claim of hostile work environment if unabated.
 - Prompt remedial action was taken once aware by District Office Manager.

Allegation 6

- Allegation – Inappropriate Comments and Jokes During Campaigning:
 - *The Senator made "inappropriate sexualized comments" to a female intern at the 2012 Democratic National Convention.*
 - *Campaign staffers from the 2008 campaign indicated the Senator "repeatedly discussed sex in front of young female staffers, including references to "women I'd like to f--" and that "he would talk about actresses he wanted to sleep with."*
 - *A 2008 campaign staffer said that he referenced wanting to hire a "full set" of secretaries: a blonde, a brunette, and a redhead – followed by a "bald chick"; and "wanting to have his own "Charlie's Angels."*
 - *In the campaign office, Senator Leach would watch a nearby event for young mothers and toddlers held at a coffee shop and would call the event "MILF and cookies" instead of its actual name "Milk and Cookies."*
 - *A 2008 campaign fundraiser stated that she "was offended by his sexualized tone in the office," and when she expressed discomfort the Senator "labeled me a prude and characterized me to my colleagues as the campaign's wet blanket."*

Allegation 6

- Conclusions – Inappropriate Comments and Jokes:
 - Individually:
 - None of the comments or jokes that were substantiated rose to the level of actionable sexual harassment.
 - Together:
 - Conduct such as this which includes jokes/comments of an immature and unprofessional nature, while not directly sexual, but which contain a sexual context, could work together to form the basis of a hostile work environment claim.

Allegation 6

- Allegation – Inappropriate Touching During Campaigning:
 - *A campaign fundraiser stated that Senator Leach "was prone to 'inappropriate' touching." "He'd put his arm around me, and his hand would linger on the small of my back, and briefly graze my butt."*
 - *Senator Leach would sometimes treat female interns differently than male interns, including tickling them or hugging them excessively.*

Allegation 6

- Conclusions:
 - Setting aside the allegations of touching noted in Allegations 2 and 4.
 - Allegations were all of a more general nature, without specifics, that the Senator had a way about him that could be viewed as sexually suggestive only if that person did not know Senator Leach.
 - While there are generalized rumors of alleged inappropriate touching, those rumors could not be substantiated by specific factual accounts.

Allegation 7

- Allegation / Conclusions – Caucus Working Environment:
 - No specific claims regarding Senator Leach’s District or Capitol office working environment were identified in the INQUIRER article or subsequent media reporting.
 - As discussed, two incidents at the District office were identified during this investigation.
 - No other witnesses complained about activity in Senator Leach’s District Office.
 - “Morning Scrum”:
 - Included jokes of sexual nature in preparation for Gridiron.
 - No witnesses offended.
 - Activity ceased in light of allegations of inappropriate sexual humor.
 - Unable to conclude that the working environment in the Caucus (and in particular Senator Leach’s District Office) is one that is permeated with sex discrimination or sexual harassment.

Allegation 8

- Allegation:
 - *Senator Leach has engaged in inappropriate conduct towards colleagues in the Senate.*
- Conclusion:
 - Conduct that qualifies as unprofessional and inappropriate as far as one would expect colleagues to treat one another was reported, but none of the allegations involved claims of sexual harassment.
 - Such conduct, however, may rise to the level of workplace harassment under the Senate policy if unabated.

Allegation 9

- Allegation:
 - *Cara Taylor alleged that in 1991, while the private citizen Leach was defending her mother in an attempted murder trial, he sexually assaulted her in his apartment.*

Allegation 9

- Conclusion:
 - Certain factual inconsistencies in Ms. Taylor's recollection of events exist.
 - Private criminal complaint not signed under penalty of perjury.
 - Allegations are 28 years old, contested charges relying mainly on the resolution of credibility as between two people.
 - None of these allegations occurred while Mr. Leach was a member of the Senate.
 - Ms. Taylor steadfastly believed her account of what transpired – her testimony on this point was detailed and passionate.
 - Senator Leach adamantly denies any inappropriate contact with Ms. Taylor.
 - Ultimately, credibility disputes occasioned by the passage of time, among other things, may only be resolved through a contested hearing held under oath where witnesses are subject to either criminal or civil process, rules and sanctions.

Conclusions

- Senator as employer v. Candidate as employer:
 - Interplay of SDCC.
- Behavior publicly relevant v. when behavior creates legal liability for Senate and the Caucus.

Conclusions

- Senator Leach's behavior as a member of the Senate:
 - No evidence of actionable discrimination or harassment in violation of applicable law or Caucus policies.
 - Senator Leach engaged in joking and humor that was immature and unprofessional.
 - Jokes with a sexual context have the potential to create a hostile work environment.

Recommendations

- Training:
 - Sexual harassment and hostile work environment claims.
- Human Resources Department:
 - Work with Chiefs of Staff and office managers.
- SDCC:
 - Clarify for all Senators and staff that while not under Caucus jurisdiction, their conduct in this forum may be relevant.
 - Recommend voluntarily applying Senate and Caucus policies to this environment.
- Members:
 - Reinforce commitment to members treating each other with mutual respect.



Thank you!